

Internal Revenue Service
District Director

Department of the Treasury

Post Office Box 1680, GPO
Brooklyn, NY 11202

Date: MAR - 5 1998

Person to Contact:

Contact Telephone Number:

Refer Reply to:

Employer Identification Number:

CERTIFIED MAIL

Dear Applicant.

We have considered your application for tax-exempt status under section 501(c)(3) of the Internal Revenue Code.

The evidence presented disclosed that you were formed as a trust on [REDACTED] in the [REDACTED].

The purpose for which your organization was created was to distribute funds to several organizations whose purposes are covered under section 501(c)(3) of the Internal Revenue Code.

However, [REDACTED] of the net trust income is to be given and bequeathed annually to the [REDACTED] for the perpetual care of [REDACTED], which is not exempt under section 501(c)(3).

The activity of the organization is to pay out annually a fixed percent of the net income of the trust to each of the named organizations, including the [REDACTED].

According to your financial information, your support comes from investment income.

Section 501(c)(3) of the Code provides, in part, for the exemption from Federal income tax of organizations organized and operated exclusively for charitable, religious, scientific or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

In order to qualify under IRC 501(c)(3), an organization must be both "organized" and "operated" exclusively for one or more purposes specified in that section. If the organization fails to meet either the organizational test or the operational test, it is not exempt. (Regs. 1.501(c)(3)-1(a)(1)). The organizational test relates to the rules for governing an organization and the purposes stated in its articles of organization. The operational test relates to the organization's activities.

Section 1.501(c)(3)-1(c)(1) of the Regulations states that if more than an insubstantial part of an organization's activities is not in furtherance of exempt purposes, the organization will not be regarded as exempt.

In Better Business Bureau v. U.S., 326 U.S. 279 (1945), the Supreme Court stated that the presence of even a single, non-exempt purpose, if more than insubstantial in nature, will defeat exemption under Section 501(c)(3) of the Code, regardless of the manner or importance of the truly exempt purposes.

Section 1.501(c)(3)-1(d)(2) of the Regulations provides that the term "charitable" includes relief of the poor and distressed, advancement of education and science and the promotion of social welfare designed to accomplish any of the above purposes.

Revenue Ruling 67-149, 1967-1 C.B. 133, states that an organization formed for the purposes of providing financial assistance to organizations that are exempt under section 501(c)(3) of the Code at periodic interval is, itself, tax exempt under section 501(c)(3).

Unlike the above organization who contributes to organizations that are tax exempt under 501(c)(3) of the Code, your organization contributes, substantially, to [REDACTED] that is not tax exempt under section 501(c)(3).

Revenue Ruling 59-190, 1959-1 C.B. the I.R.C. 170(c)(5) provides for the deduction for Federal income tax purposes of contributions to cemetery companies in IRC 501(c)(3). However, payments made to cemetery company as part of the purchase price of a burial lot or crypt, even though irrevocably dedicated to the perpetual care of the cemetery as a whole, are not deductible.

Like the organization described in Section 1.501(c)(3) - 1(c)(1) and Revenue Ruling 59-190, your annual distribution of income to [REDACTED] for [REDACTED] which is more than an insubstantial part of your organization's activities is not in furtherance of exempt purpose within the meaning of section 501(c)(3) of the code.

Accordingly, we conclude that you do not meet the requirements for exempt status under section 501(c)(3) of the Code and propose to deny your request for exemption under that section.

We have also determined that you fail to qualify for exempt status under any other subsection of IRC 501(c).

You are required to file a taxable return Form 1120 or 1041 with the District Director of Internal Revenue Service. Please send the return to the Internal Revenue Service, P.O. Box 1680, General Post Office, Brooklyn, NY 11202.

Contributions made to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

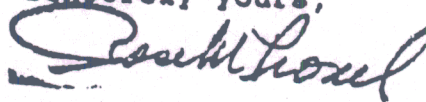
If you do not agree with this determination, you may request a Conference with the Regional Director of Appeals by protesting in accordance with the enclosed instructions within 30 days.

Protests submitted which do not contain all the documentation stated in the instructions will be returned for completion.

If we do not hear from you within that time this determination will be considered final and the appropriate State Officials will be notified.

If you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies. Section 7428(b)(2) of the Internal Revenue Code provides in part that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,



District Director

Enclosure: Publication 892